



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF APPLICATION OF)
BELL ATLANTIC-NEW JERSEY, INC.)
N/K/A VERIZON NEW JERSEY INC. FOR)
APPROVAL OF A RESALE AGREEMENT)
WITH PHOENIX COMMUNICATIONS)
SOLUTIONS, INC. UNDER SECTION 252)
OF THE TELECOMMUNICATIONS ACT OF)
1996)

ORDER APPROVING
RESALE AGREEMENT

DOCKET NO. TM99120946

(SERVICE LIST ATTACHED)

BY THE BOARD:

I. BACKGROUND

By letter dated December 13, 1999, Bell Atlantic-New Jersey, Inc. n/k/a Verizon New Jersey Inc. (Verizon) filed an application (Application) for approval of a negotiated Resale Agreement (the Agreement) between Verizon and Phoenix Communications Solutions, Inc. (Phoenix) (individually, a Party and jointly, the Parties) with the Board of Public Utilities (Board) pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq. (the Act). By letter dated December 8, 1999, Phoenix authorized Verizon to file the application on Phoenix's behalf.

II. RESALE AGREEMENT

The Agreement, dated May 9, 1999, sets forth the terms, conditions and prices under which Verizon will offer and provide to Phoenix telecommunications services available for resale and resale support services within each Local Access and Transport Area (LATA) in which they both operate within New Jersey. Attachment 1 to Exhibit II of the Agreement sets forth a detailed schedule of itemized charges. A key provision of the Agreement provides for Verizon to offer its telecommunications services for a wholesale discount of 17.04% if Phoenix uses Verizon operator services, and 20.03% if Phoenix provides its own operator services. The Agreement also provides for: (1) customers to retain their telephone numbers when they switch to Phoenix; (2) including Phoenix customers' primary listings in the White Pages and Yellow Pages (for business customers) directories and directory assistance databases; and (3) offering 911 services to all customers. The Agreement shall remain in effect from the effective date through the Initial Term ending date of May 9, 2000, after which it shall remain in effect until terminated as provided in the Agreement.

The Agreement provides that to the extent required by applicable law, the Verizon operations support systems (OSS) services that will be offered by Verizon to Phoenix shall be the same as the Verizon OSS services Verizon offers, under agreements approved by the Board pursuant to

47 U.S.C. §252, to other telecommunications carriers that are engaged in the resale of Verizon retail telecommunications services pursuant to 47 U.S.C. §251(c)(4).

The Agreement provides that Verizon shall have the right to change the prices for such Verizon services from time-to-time and to the extent such change is required, approved or permitted by applicable law, including, but not limited to, by regulation or order of the Board, the Federal Communications Commission (FCC), or other governmental entity of appropriate jurisdiction.

III. COMMENTS

By letter dated July 18, 2000, the Division of the Ratepayer Advocate (the Advocate) filed comments on the Agreement. In summary, the Advocate stated that it is satisfied that the Agreement does not discriminate against other carriers and is consistent with the public interest, convenience and necessity, and therefore recommended that the Board approve the Agreement. Nevertheless, the Advocate urged approval conditioned upon an explicit Board finding that the Board is making no determination regarding Verizon's satisfaction of the competitive checklist requirements found in Section 271 of the Act.

IV. DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, services or elements without regard to the standards set forth in 47 U.S.C. §251(b) and (c).

47 U.S.C. §252(e)(1) requires approval by the Board of any interconnection agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that:

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity.

[47 U.S.C. §252(e)(2)(A)].

The Board notes that, pursuant to 47 U.S.C. §252(e)(4), this Resale Agreement has been deemed approved. Nevertheless, the Board's review of the Agreement in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement. Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. Approval does not constitute a determination concerning Verizon's obligations pursuant to Section 271 of the Act, although this Agreement will be taken into consideration in that determination. In addition, approval does not constitute a determination concerning, nor shall the Board be bound by, provisions within this Resale Agreement regarding the confidentiality of information.

Additionally, the Board DIRECTS the Parties to conform to all federal and state statutes and Board regulations regarding service quality standards and customer relations, as applicable, including, but not limited to, those related to the resale of telecommunications services, the solicitation of resale customers and the submission of primary interexchange and local exchange carrier change orders to local exchange carriers.

Pursuant to 47 U.S.C. §252(h), a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this Order. Subsequent amendments or modifications of the Agreement are subject to review and approval by the Board.

DATED: 2/26/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

Having been sworn in as Acting Commissioner on February 13, 2001, I have not had an adequate opportunity to review this matter prior to the Board's February 14, 2001 agenda meeting, and I therefore abstain from rendering a decision.

(signed)
CAROL J. MURPHY
ACTING COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY